

## RESOLUTION NO. A-\_\_\_\_\_

1 WHEREAS, Nader Sepahpur dba "Osoburrito" has submitted an application  
2 for a Sidewalk Cafe Permit to use a portion of the public right-of-way at the at 1451 O  
3 Street as a sidewalk cafe; and

4 WHEREAS, the applicant is willing to comply with all of the provisions of  
5 Chapter 14.50 of the Lincoln Municipal Code pertaining to such use; and

6 WHEREAS, the application has been reviewed by the Planning Department,  
7 the Public Works and Utilities Department, and the Urban Design Committee, each of  
8 which has submitted a report in conformance with § 14.50.050 of the Lincoln Municipal  
9 Code.

10 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
11 Lincoln, Nebraska:

12 That the application of Nader Sepahpur dba "Osoburrito", hereinafter referred  
13 to as "Permittee", to operate a sidewalk cafe in a portion of the public right-of-way at the  
14 1451 O Street is hereby approved conditioned upon such use conforming to the  
15 application which is attached hereto as Exhibit "A", the site plan which is attached hereto  
16 as Exhibit "B", the provisions of Chapter 14.50 of the Lincoln Municipal Code and the  
17 following express terms, conditions, and requirements:

18 1. This permit authorizes a maximum seating capacity of 32 within the  
19 permit area as shown on the site plan.

20 2. Permittee shall maintain a clear, unobstructed passageway entirely  
21 across the frontage of the property occupied by the Permittee parallel to the line of the  
22 street and generally in the line of pedestrian traffic as shown on the site plan.

23 3. The permit area shall be separated from the pedestrian passageway  
24 with a fence or other rigid barrier having a minimum height of 36" but not greater than 60"

1 except for necessary pedestrian ingress and egress as shown in the application. In  
2 addition, the Permittee must remove the fencing, all tables, chairs or other items for the  
3 café by 10:00 p.m. on each Thursday, Friday, and Saturday.

4 4. The space to be occupied by this use shall only be used for the activity  
5 or activities specified on the permit and in accordance with all applicable regulations.

6 5. Such use is temporary and the Permittee, by the granting of this  
7 permit, acquires no right, title, or interest in the space permitted to be used.

8 6. The City Council may require such space to be vacated, restored to  
9 its prior condition upon demand, and its use discontinued, with no recourse against the City  
10 for any loss or damage occasioned thereby. If any such space is not vacated and restored  
11 to its prior condition and such use not discontinued by the time specified, the City may  
12 remove from such space any property left thereon at the risk and expense of the Permittee  
13 and restore such space to its prior condition at the expense of the Permittee.

14 7. The Permittee shall promptly remove any litter deposited on or in the  
15 vicinity of the space used by the Permittee resulting from the activity or activities conducted  
16 by the Permittee.

17 8. The Permittee shall at all times conduct their use of the space in an  
18 orderly fashion and in such a manner as to protect the public health and safety.

19 9. Such space shall be used for business purposes by Permittee only  
20 between the hours of 11:00 a.m. to 11:00 p.m. Monday through Saturday.

21 10. The Permittee shall comply with all health and sanitation regulations.

22 11. The permit issued pursuant to this section is a personal privilege and  
23 may not be transferred or alienated voluntarily or involuntarily.

24 12. Where exigent circumstances exist and a police officer or other  
25 authorized officer or employee of the City gives notice to Permittee to temporarily move  
26 from a location, Permittee shall comply with the notice. Exigent circumstances shall

1 include, but not be limited to, unusually heavy pedestrian vehicular traffic, existence of any  
2 obstructions in the public space at or near such location, an accident, fire, or other  
3 emergency situation at or near such location, or parade, demonstration, or other such  
4 event or occurrence at or near such location.

5 13. Permittee shall not sound or permit the sounding of any signal from  
6 any stationery bell, chime, siren, whistle, or device for non-emergency purposes or use or  
7 operate any loud speaker, public address system, radio, sound amplifier, or similar device  
8 which may be heard beyond 50 feet from its source.

9 14. No advertising shall be permitted on or in the sidewalk cafe except to  
10 identify the product or vendor and shall in all respects comply with the provisions of Titles  
11 22 and 27 of the Lincoln Municipal Code regulating signage.

12 15. Any umbrella, canopy, or similar device within the permit area shall be  
13 no more than 6½ feet above ground level.

14 16. The sidewalk cafe shall be located only in the exact location described  
15 in the approved application, and the approved furnishings may not be modified or  
16 substituted.

17 17. The Permittee shall at all times maintain public liability insurance in the  
18 form of a commercial or comprehensive general liability policy, or an acceptable substitute  
19 policy form as permitted by the City Attorney, with a minimum combined single limit of  
20 \$500,000 aggregate for any one occurrence, and shall at all times keep on file with the City  
21 Clerk a current certificate of insurance signed by a qualified agent of an insurance  
22 company licensed to do business in the State of Nebraska evidencing the existence of  
23 valid and effective policies of insurance naming the City as an additional insured for the  
24 coverage required above, the limits of each policy, the policy number, the name of the  
25 insurer, the effective date and expiration date of each policy, the deductibles or self-  
26 insurance retainers of each policy, and a copy of an endorsement placed on each policy

1 requiring 30 days notice by mail to the City Clerk before the insurer may cancel the policy  
2 for any reason, and upon request of the City Clerk or the City Attorney, a copy of any  
3 endorsements placed on such policies or the declarations page of such policies. Any  
4 termination or elapse of such insurance shall automatically revoke this permit.

5 18. This permit shall expire on the 31st day of May following its issuance,  
6 but renewal of the permit may be made for one-year periods by application to the City Clerk  
7 and payment of the annual permit fee as set forth in Chapter 14.50 and the payment of the  
8 rental for the use or occupation of the space computed as follows: \$.25 per annum for  
9 each square foot of the permit area (470.40 square feet) for an annual rental of \$117.60;  
10 provided, however, said rental may be increased for future years by action of the City  
11 Council.

12 19. That within thirty (30) days from the adoption of this resolution, and  
13 before commencing any construction under the provisions hereof, the above-named  
14 applicant shall execute the letter of acceptance attached hereto and marked as Exhibit "C".  
15 Failure to do so will be considered a rejection hereof and all privileges and authorities  
16 hereunder granted shall thereupon ipso facto terminate.

Introduced by:

\_\_\_\_\_

Approved as to Form and Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_\_ day of \_\_\_\_\_, 2003:

\_\_\_\_\_  
Mayor